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IDPH Announces Top to Bottom, Independent Review of Long-Term Care Bureau in Response to Delay in Complaint Investigations

Independent Consultant Hired to Recommend Agency Best Practices and Former U.S. Attorney Hired to Review Prior Long-Term Care Investigations

SPRINGFIELD – The Illinois Department of Public Health (IDPH) is announcing a top to bottom, independent review of its Bureau of Long-Term Care in the Office of Health Care Regulation, in response to a delay in the investigation of abuse and neglect complaints during the COVID-19 pandemic. Manatt Health Strategies, LLC, has been hired to conduct a top to bottom review of the division, with a focus on recommending best practices to ensure proper licensure and oversight activities by the Bureau of Long-Term Care. IDPH has also hired a former U.S. Attorney for the Southern District of Illinois, A. Courtney Cox, to take a closer look at specific investigations IDPH conducted into complaints made concerning long-term care facilities during the COVID-19 pandemic. This review will inform IDPH’s efforts to improve existing procedures.

The independent reviews are being launched in response to IDPH’s recent discovery that the Bureau of Long-Term Care was not properly processing and investigating complaints of abuse and neglect at long-term care facilities from approximately March 15 to June 30, 2020. IDPH took immediate action to ensure all of the complaints received during this time period have been investigated. IDPH also took appropriate personnel action.

As part of its role in regulating long-term care facilities, IDPH is required to respond to complaints regarding long-term care facilities to determine whether any federal or state laws or regulations have been violated by those facilities. IDPH receives and investigates complaints relating to a range of misconduct in long-term care facilities, including abuse and neglect, and refers any allegations rising to the level of criminal conduct to the Illinois State Police when the complaint is received. Long-term care facilities have a legal obligation to report any potential criminal conduct to law enforcement.

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“Our top priority as a regulator of long-term care facilities in Illinois is ensuring vulnerable Illinoisans are kept safe by those responsible for their care,” said IDPH Director Dr. Ngozi Ezike. “Anything short of that is unacceptable, and our entire department is committed to getting this right as we move forward. Working with independent experts, we are simultaneously conducting a full and thorough review of our previous work and revamping our Bureau of Long-Term Care to better serve the people of Illinois.”

Under federal and State laws, IDPH responds to allegations of abuse and neglect at long-term care facilities by surveying the facilities within designated timeframes. Surveys must be conducted within 24 hours for the most serious complaints of abuse and neglect pursuant to Illinois law; surveys in response to all other complaints of abuse and neglect must be conducted within seven days.

Throughout the COVID-19 pandemic, federal guidance for regulatory agencies required scaling back long-term care regulatory operations to minimize the number of individuals entering long-term care facilities who could potentially expose residents to the virus. As a result, federal and state agencies were required to prioritize survey operations to reduce the number of individuals entering facilities and to focus facility and agency resources on infection control and patient safety. Specifically, due to COVID-19, the federal Centers for Medicare and Medicaid Services (CMS) suspended the timelines for State regulators to investigate certain complaints. Regardless of the guidance from federal CMS, however, Illinois law that requires abuse and neglect complaints to be reviewed within certain timeframes was not suspended and IDPH personnel did not complete reviews of allegations of abuse and neglect in a timely manner between approximately March 15 and June 30. Additionally, IDPH did not meet state deadlines for conducting those surveys, in part because of improper classifications of some complaints.

As soon as IDPH leadership identified that some abuse and neglect complaints had been improperly classified and not investigated in a timely manner, surveyors were directed to investigate all complaints of abuse and neglect that had not yet been investigated. Investigations for all of complaints of abuse and neglect that were received during that time period have now been completed. These investigations include an on-site visit, interviews with necessary individuals, review of relevant facility documents, and, where appropriate, confirmation that law enforcement had also been notified at the time of the incident alleged in the complaint.

IDPH has now conducted complaint investigations for 272 allegations of abuse and neglect that had been received between March 15 and June 30. As a result of those investigations, IDPH was able to substantiate the factual circumstances of 17 of those complaints. As the next step in the regulatory process, IDPH is now reviewing those substantiated factual findings to determine whether they constitute a violation of federal or state law and the appropriate next steps for such violations. For example, a surveyor could have confirmed that an incident described in a complaint did occur (e.g. a resident fell or was injured), but that the nursing home was not responsible, acted appropriately, or that the nursing home’s conduct did not violate state or federal regulation. To ensure that the findings were thorough and accurate, IDPH has hired former U.S. Attorney Cox to conduct a thorough review of the complaints that IDPH found to be unsubstantiated and determine if any next regulatory or legal steps are warranted in response to those complaints.

IDPH has also hired Manatt to conduct a top to bottom review of the Bureau of Long-Term Care’s practices and procedures related to intake of complaints, conducting surveys in response



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to complaints, requiring corrective action by facilities, and overall oversight and monitoring of long-term care facilities. Manatt will make recommendations to IDPH to identify any outstanding issues and systemic weaknesses so that IDPH may provide better oversight of long-term care facilities. Manatt will also provide recommendations regarding current best practices for quality and surveillance.

Throughout this time period, IDPH conducted robust infection control efforts in long-term care facilities in response to COVID-19. During the pandemic, IDPH has conducted more than 1,000 infection control inspections at 727 facilities. IDPH has also provided technical assistance to 57 local health departments across the state to expand their capacity to support long-term care facilities, and provided numerous guidelines to long-term care facilities about the use of PPE, restricting visitor access to prevent exposure, and requiring facilities to complete a COVID-19 infection control assessment. This is in addition to mandating testing of residents and staff and agency-assisted efforts to increase testing by deploying mobile-testing units to facilities experiencing outbreaks. IDPH also suspended state-level involuntary discharges of long-term care facility residents due to late payment or nonpayment in order to prevent further disruption to vulnerable Illinoisans.

Anyone with a complaint about a long-term care facility – residents, families, staff, visitors, etc. – can file a complaint with the IDPH Central Complaint Registry hotline at 800-245-4343. More information on filing a health care complaint can be found at <http://www.dph.illinois.gov/topics-services/health-care-regulation/complaints>.

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